

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

STATE OF TEXAS AND
TEXAS DEPARTMENT OF
TRANSPORTATION,

Plaintiffs,

v.

U.S. DEPARTMENT OF
TRANSPORTATION, FEDERAL
HIGHWAY ADMINISTRATION,
PETE BUTTIGIEG, in his official
capacity as SECRETARY OF
TRANSPORTATION, and SHAILEN
BHATT, in his official capacity as
ADMINISTRATOR OF THE FEDERAL
HIGHWAY ADMINISTRATION,

Defendants.

Civil Action No. 5:23-cv-304

CERTIFICATION OF THE ADMINISTRATIVE RECORD

Gary Jensen, pursuant to 5 U.S.C. § 706, deposes and says as follows:

1. I am Director of the Office of Natural Environment, Federal Highway Administrative (FHWA). In this position, I am the principal official at FHWA responsible for environmental programs associated with air quality, climate change, sustainability, and noise. I also provide program advice to the Federal Highway Administrator, Deputy Administrator, Executive Director, Associate Administrators,

Director of Field Services, and Division Administrators. The facts attested to herein are based on my personal knowledge.

2. To the best of my knowledge, the index annexed hereto lists, and the administrative record provided today to plaintiffs includes a true and complete copy of, all documents and materials considered by the agency in producing *National Performance Management Measures; Assessing Performance of the National Highway System, Greenhouse Gas Emissions Measure*, 88 Fed. Reg. 85364 (Dec. 7, 2023). Privileged documents reflecting internal agency deliberations are not part of this administrative record. See *Ad Hoc Metals Coalition v. Whitman*, 227 F. Supp. 2d 134, 142-43 (D.D.C. 2002); *AMFAC Resorts, L.L.C. v. Dep't of the Interior*, 143 F. Supp. 2d 7, 13 (D.D.C. 2001).

I certify under penalty of perjury that the foregoing is true and correct.

Dated: January 31, 2024

Gary A. Jensen
Director, Office of Natural Environment
Federal Highway Administration
U.S. Department of Transportation